

AMENDED IN SENATE MAY 3, 2004

SENATE BILL

No. 1855

Introduced by Senator Alpert

February 20, 2004

An act to amend Sections 10102 and 10103 of, ~~and to add Chapter 12 (commencing with Section 10109) to Part 1 of Division 2 of, the~~ *the* Insurance Code, relating to homeowners' insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1855, as amended, Alpert. Homeowners' insurance: liability limits: disclosure.

Existing law prohibits an insurer from issuing or initially renewing a policy of residential property insurance unless the insurer provides to the applicant or policyholder a disclosure statement containing specified information. Existing law requires the insurer, following the issuance or initial renewal of the policy, to provide the disclosure statement to the insured every other year.

This bill would require that this disclosure statement ~~include a cost comparison of each of the different categories of coverage offered by that insurer. It would require that the cost comparison state the~~ *provide the additional cost for each of the different categories of coverage offered by the insurer that provide broader coverage than the insured's current coverage. It would require that the cost shown represent the additional premium that would be charged to the insured for each category of coverage if the insured were to opt for that category of coverage.*

~~Existing law generally regulates homeowners' insurance.~~

~~This bill would allow a policyholder under a homeowners' insurance policy, within 30 days of the effective date of the policy, or any renewal~~

~~thereof, to increase or decrease the limits of liability with respect to any residence covered under the policy based upon reasonable and supportable estimates of value or replacement cost.~~

Existing law prohibits a homeowners' policy from being issued or renewed unless it indicates on the declarations page, or on a separate disclosure form, specified information, including the limits of liability for the structure.

~~This bill would require that the declarations page or disclosure form provide an explanation of the basis for the determination of these limits, and advise the policyholder that he or she may increase or decrease the limits as described above. The bill would require that this information also be provided in writing to the insured whenever the limits of liability for the structure are changed an insurer provide this information on the declarations page of the policy, and that the information include the square footage of the structure and a specified statement regarding the valuation of the structure. The bill would provide that an insurer that fails to provide this notice the required information regarding the limits of liability is responsible for the accuracy of the replacement cost of the structure indicated in the limits of liability, and shall be liable for the full replacement cost of the structure in the event of a loss that exceeds the limits established by the insurer.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10102 of the Insurance Code is
2 amended to read:
3 10102. (a) The disclosure required by Section 10101 shall be
4 in no less than 10-point type face and shall be provided prior to,
5 or concurrent with, the application for or initial renewal of a policy
6 of residential property insurance. In the event that an application
7 is made by telephone, an insurer that mails a copy of the disclosure
8 within three business days shall be in compliance with this section.
9 For policies issued on or after July 1, 1993, at the time of the
10 original application, the agent or insurer shall obtain the
11 applicant's signature acknowledging receipt of the disclosure form
12 within 60 days of the date of the application. When the insurer or
13 agent establishes delivery of the disclosure form by obtaining the
14 signature of the applicant or insured, or when an insurer or agent

1 provides the applicant with the disclosure form and the applicant
2 does not return a signed acknowledgment of receipt within 60 days
3 of the date it was provided, there shall be a conclusive presumption
4 that the insurer or agent has complied with the disclosure
5 requirement of this chapter. The insurer or agent shall have the
6 burden of demonstrating in accordance with California Rules of
7 Evidence that the disclosure was provided to the applicant or
8 insured. A signature shall not be required at the time of renewal.

9 If the disclosure is mailed to the named insured or applicant, it
10 shall be mailed to the mailing address shown on the policy of
11 residential property insurance or to the address requested by the
12 applicant. First-class mail shall be deemed adequate for proof of
13 mailing. The insurer shall have the burden of demonstrating in
14 accordance with California Rules of Evidence that the disclosure
15 was mailed to the applicant or insured.

16 The disclosure shall contain the following language:

17
18 CALIFORNIA RESIDENTIAL PROPERTY INSURANCE
19 DISCLOSURE
20

21 This disclosure is required by California law (Section 10102 of
22 the Insurance Code). It describes the principal forms of insurance
23 coverage in California for residential dwellings. It also identifies
24 the form of dwelling coverage you have purchased or selected.

25 This disclosure form contains only a general description of
26 coverages and is not part of your residential property insurance
27 policy. Only the specific provisions of your policy will determine
28 whether a particular loss is covered and, if so, the amount payable.
29 Regardless of which type of coverage you purchase, your policy
30 may exclude or limit certain risks.

31 READ YOUR POLICY CAREFULLY. If you do not
32 understand any part of it or have questions about what it covers,
33 contact your insurance agent or company. You may also call the
34 California Department of Insurance consumer information line at
35 (____).

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NOTE TO PRINTING OFFICE: INSERT CAMERA-READY
COPY HERE

for Forms of Coverage for Dwellings disclosure form

as printed in Ch. 11 on Pages 79 & 80, in Vol. 1 of the 1993
Statutes.



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1 (b) The agent or insurer shall indicate on the disclosure form
2 which category of coverage the applicant or insured has selected
3 or purchased.

4 (c) The disclosure statement may contain additional provisions
5 not in conflict with or in derogation of the foregoing.

6 (d) Following the issuance or initial renewal of the policy of
7 residential property insurance, the insurer shall provide the
8 disclosure statement to the insured on an every-other-year basis at
9 the time of renewal. The disclosure required by this section may
10 be transmitted with the material required by Section 10086.1.

11 (e) No policy of residential property insurance may be initially
12 issued on and after January 1, 1993, as guaranteed replacement
13 cost coverage if it contains any maximum limitation of coverage
14 based on any set dollar limits, percentage amounts, construction
15 cost limits, indexing, or any other preset maximum limitation for
16 covered damage to the insured dwelling. The limitations referred
17 to in this section are solely applicable to dwelling structure
18 coverages. Endorsements covering additional risks to the insurer's
19 dwelling structure coverage may have internal limits as long as
20 those endorsements are not called guaranteed replacement cost
21 coverage.

22 (f) On and after July 1, 1993, no policy of residential property
23 insurance may be renewed as guaranteed replacement cost
24 coverage if it contains any maximum limitation of coverage based
25 on any set dollar limits, percentage amounts, construction cost
26 limits, indexing, or any other preset maximum limitation for
27 covered damage to the insured dwelling. The limitations referred
28 to in this section are solely applicable to dwelling structure
29 coverages. Endorsements covering additional risks to the insurer's
30 dwelling structure coverage may have internal limits as long as
31 those endorsements are not called guaranteed replacement cost
32 coverage.

33 (g) Coverage provided for building code upgrades by a policy
34 of residential property insurance shall be applicable to building
35 codes, ordinances, standards, or laws only to the extent that those
36 codes, ordinances, standards, or laws do not impose stricter
37 standards on the property on the basis of the level of insurance
38 coverage applicable to the property.

39 (h) The disclosure required by Section 10101 shall also be
40 provided to the mortgagor in the event that a policy is forced

placed by an insurer at the request of a mortgagee. In such cases, neither the insurer nor the mortgagee shall be required to obtain a signature from the mortgagor. No disclosure shall be required to be provided with respect to blanket policies issued to a mortgagee, and designed to provide interim coverage for losses occurring prior to the mortgagee obtaining knowledge of the lapse of the policy and prior to placement of a policy on behalf of the mortgagor.

(i) On and after July 1, 1994, insurers shall add to the disclosure, in no less than 10-point type the following statement:

This disclosure form does not explain the types of contents coverage (furniture, clothing, etc.) provided by your policy. Some policies do not replace contents with new items, but instead, only pay for the current market value of an item. If you have any questions, contact your insurer or agent.

(j) On and after January 1, 2005, the disclosure shall also ~~include a cost comparison of each of the different categories of coverage offered by that insurer. The cost comparison shall state the premium that would be charged to the insurer for each category~~ *provide the additional cost for each of the different categories of coverage offered by the insurer that provide broader coverage than the insured's current coverage. The cost shown shall represent the additional premium the insured would be charged for each category of coverage if the insured were to opt for that category of coverage.*

SEC. 2. Section 10103 of the Insurance Code is amended to read:

10103. (a) No policy of residential property insurance may be issued or renewed in this state unless it ~~indicates on the declarations page of the policy or, if space does not permit, on a separate disclosure form attached to the declarations page:~~

~~(1) Limits of liability for the structure, and an explanation of the basis for the determination of these limits. The declarations page or disclosure form shall advise the policyholder that he or she may increase or decrease the limits of liability for the structure within 30 calendar days of the effective date of the policy, or any subsequent renewal thereof, based upon reasonable and supportable estimates of value or replacement cost. This information shall also be provided in writing to the insured whenever the limits of liability for the structure are changed.~~

1 ~~(2)~~ provides the following information on the declarations page
2 of the policy:

3 (1) The limits of liability for the structure.

4 (2) The square footage of the structure.

5 (3) The following statement regarding the valuation of the
6 structure:

7 “The limit of liability for this structure equates to a cost of \$_____

8 per square foot of construction. This cost may or may not represent

9 the actual cost to rebuild your home. Please contact your insurer,

10 agent, or broker, or conduct your own independent evaluation, if

11 you do not believe your limit of liability is sufficient to rebuild.”

12 (4) Limits of liability for personal property.

13 ~~(3)~~

14 (5) Deductibles.

15 ~~(4)~~

16 (6) Whether the policy provides coverage for the increased

17 costs of repairing or replacing damage to the insured dwelling

18 caused by a covered loss because of building ordinances or laws

19 regulating the repair. In the event that no coverage is provided for

20 repairs that result from new building ordinances or laws, the

21 insurer shall include in no less than 10-point typeface the

22 following statement: “THIS POLICY DOES NOT INCLUDE

23 BUILDING CODE UPGRADE COVERAGE.”

24 (b) In the event that the policy does include code upgrade

25 coverage, it shall either:

26 (1) State this on the declaration page, and denote any applicable

27 limits.

28 (2) State this on a separate disclosure form attached to the

29 declarations page, if the separate disclosure form meets the

30 following standards:

31 (A) It is printed in not less than 10-point typeface.

32 (B) It denotes any applicable limits on the amount of coverage.

33 (C) It denotes restrictions, if any, on coverage for compliance

34 with applicable building codes which take effect after the date of

35 loss but prior to the issuance of required building permits.

36 (c) An insurer that fails to provide the ~~notice~~ information

37 required by paragraph (1) of subdivision (a) is responsible for the

38 accuracy of the replacement cost of the structure indicated in the

39 limits of liability. Notwithstanding these limits, an insurer that

40 fails to provide this notice shall be liable for the full replacement

1 cost of the structure in the event of a loss that exceeds the limits
2 established by the insurer.

3 ~~SEC. 3. Chapter 12 (commencing with Section 10109) is~~
4 ~~added to Part 1 of Division 2 of the Insurance Code, to read:~~

5
6 ~~CHAPTER 12. RIGHTS OF RESIDENTIAL PROPERTY INSURANCE~~
7 ~~POLICYHOLDERS~~
8

9 ~~10109. An insured under a policy of residential property~~
10 ~~insurance, as defined in Section 10104, may, within 30 days of the~~
11 ~~effective date of the policy, or any renewal thereof, increase or~~
12 ~~decrease the limits of liability with respect to any residence~~
13 ~~covered under the policy based upon reasonable and supportable~~
14 ~~estimates of value or replacement cost.~~

